

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
CESAR CRUZ,  
Defendant

Case No. CR20-158RSL

**ORDER CONTINUING  
TRIAL AND PRETRIAL  
MOTIONS DEADLINE**

15        This matter comes before the Court on “Defendant’s Motion to Continue Trial & Pretrial  
16 Motions Deadline.” Dkt. # 26. Defendant has declined to waive his right to a speedy trial. The  
17 government does not oppose defendant’s motion and “agrees that a continuance is necessary  
18 given the current conditions of the COVID-19 pandemic.” Dkt. # 27. Trial was originally  
19 scheduled for December 7, 2020. Dkts. # 12, # 14. On October 27, 2020, the parties filed a  
20 stipulated motion to continue the trial and pretrial motions dates based on the need for additional  
21 time to address ongoing discovery and to account for the challenges defendant’s counsel  
22 encountered in communicating with defendant given the COVID-19 pandemic. Dkt. # 14.  
23 Defendant waived his right to a speedy trial through March 31, 2021. On October 28, 2020, the  
24 Court issued an order granting the parties’ stipulated motion to continue the trial to March 15,  
25 2021 and ordering that the period of time from the date of the order up to and including the new  
26 trial date, be excludable time pursuant to 18 U.S.C. § 3161. Dkt. # 16.

27 The COVID-19 pandemic has significantly affected Court operations and continues to do  
28 so. Beginning on March 6, 2020, Chief Judge Martinez issued a series of General Orders  
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1 modifying courthouse operations in light of local conditions related to the COVID-19 pandemic.  
2 See W.D. Wash. General Order Nos. 01-20, 02-20, 03-20, 07-20, 08-20, 11-20, 13-20, 15-20,  
3 18-20. Most recently, on December 30, 2020, Chief Judge Martinez issued General Order No.  
4 18-20, extending modified operations through March 31, 2021, due to increased rates of  
5 COVID-19 infection, hospitalization, and death, as well as expectations regarding vaccination  
6 progress. General Order No. 18-20 also explained that, although “[a] statewide vaccination  
7 effort has begun[,] . . . [a]t this time it appears likely that the majority of individuals with  
8 business in the Courthouses, including potential jurors, will not be fully vaccinated before  
9 March 31, 2021.” General Order No. 18-20 continued the “procedures established by General  
10 Order 15-20,” which provided as follows:

11 The continuing public health situation resulting from the pandemic also limits the  
12 availability and ability of witnesses, counsel, and Court staff to be present in the  
13 courtroom, and the ability to obtain an adequate spectrum of jurors to proceed with  
14 in-person jury trials. As a result, for the foreseeable future, it will be possible to  
15 proceed with only one in-person criminal jury trial at a time at each of the  
16 district’s two courthouses. The order in which pending criminal cases will proceed  
17 to trial will be determined by the Court in consultation with the Federal Public  
18 Defender’s Office and the United States Attorney’s Office. As a result of the  
19 limitations on the number of trials that can proceed at one time to ensure the health  
20 and safety of all participants, the majority of trials will need to be continued via  
21 individual orders in each case.

22 W.D. Wash. General Order No. 15-20 (procedures continued by No. 18-20). Now, having  
23 considered the facts set forth in the motion and the government’s response, and the  
24 General Orders of this District addressing measures to reduce the spread and health risks  
25 from COVID-19, the Court finds as follows:

26 1. Considering the recommendations made by the Centers for Disease Control and  
27 Prevention (“CDC”) and Public Health for Seattle and King County regarding social distancing  
28 measures required to stop the spread of disease, it is not possible to proceed with a jury trial on  
March 15, 2021. See W.D. Wash. General Order Nos. 15-20, 18-20.

29 2. Further, because of the recommendations that individuals at higher risk of  
30 contracting COVID-19 (including individuals with underlying health conditions, older adults,  
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1 and individuals who are pregnant) avoid large groups of people, at this time, it would be  
2 difficult, if not impossible, to obtain a jury pool that would represent a fair cross section of the  
3 community. Based on recommendations of public health authorities, it would also be medically  
4 inadvisable to do so.

5       3.     As a result, the Court finds that a failure to grant a continuance of the trial date in  
6 this case would likely result in a miscarriage of justice, as set forth in 18 U.S.C.  
7 § 3161(h)(7)(B)(i). Due to the Court's reduced ability to obtain an adequate spectrum of jurors,  
8 and the impact of the aforementioned public health recommendations on Court operations, the  
9 Court specifically finds that the ends of justice served by continuing the trial in this case  
10 outweigh the best interest of the public and the defendant in a speedy trial. See 18 U.S.C.  
11 § 3161(h)(7)(A); see also W.D. Wash. General Order Nos. 15-20, 18-20.

12       4.     The Court finds that June 7, 2021, the trial date proposed by the government, is a  
13 realistic trial date, considering the many uncertain variables of this pandemic, and that the time  
14 between March 15, 2021 and June 7, 2021, constitutes a reasonable period of delay. The Court  
15 agrees with the government's observation that there is a "significant backlog of cases set for  
16 trial" and "[defendant's] case likely would not have priority relative to other in-custody  
17 defendants whose cases are older." Dkt. # 27 at 3.

18       IT IS THEREFORE ORDERED, notwithstanding defendant's refusal to waive his right  
19 to a speedy trial, that the trial date in this case be continued to June 7, 2021.

20       IT IS FURTHER ORDERED that the pretrial motions deadline be continued to April 23,  
21 2021.

22       IT IS FURTHER ORDERED that the period of time from the date of this Order up to and  
23 including the new trial date, shall be excludable time pursuant to 18 U.S.C. § 3161, *et seq.* See  
24 W.D. Wash. General Order Nos. 15-20, 18-20. The period of delay attributable to the filing and  
25 granting of this motion is excluded for speedy trial purposes pursuant to 18 U.S.C.  
26 §§ 3161(h)(1)(D), (h)(7)(A), and (h)(7)(B).

27       IT IS SO ORDERED.

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1 DATED this 19th day of February, 2021.

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4 Robert S. Lasnik  
5 United States District Judge  
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